

CENTRAL ADMINISTRATIVE TRIBUNAL,

CHANDIGARH BENCH

O.A.NO.060/01083/2017

Orders pronounced on: 04.07.2018

(Orders reserved on: 30.05.2018)

CORAM: **HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J) &
HON'BLE MS. P. GOPINATH, MEMBER (A)**

Harprit Singh Lath,

aged 30 years,

son of Shri Bhupinder Singh Lath,

resident of House No. 614,

Ward No. 13, Baggeana Basti,

Tehsil and District Moga.

Applicant

By: Mr. Gaurav Sharma, Advocate.

Versus

1. The Chandigarh Administration through the Secretary, Department of Transport, Chandigarh.
2. The Chandigarh Transport Undertaking, Plot No. 701, Industrial Area, Phase-I, Union Territory, Chandigarh through its Divisional Manager & Director Transport, Union Territory, Chandigarh.
3. Gurcharan Singh son of Shri Som Nath, resident of village Khanpur, Tehsil Kharar, District SAS Nagar, Mohali.

By: Mr. G.S. Chhina, Advocate, for Respondents No.1&2
Mr. Jasbir Singh, Advocate, for Respondent No.3.

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Respondents

ORDER
HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J)

1. The applicant has filed this Original Application under section 19 of the Administrative Tribunals Act, 1985, seeking quashing of impugned order dated 18.8.2017 (Annexure A-1), vide which his claim for issue of appointment order, as Bus Driver, in Chandigarh Transport Undertaking (CTU) has been rejected and to issue direction to the respondents to appoint him as Bus Driver, as persons lower in merit, like respondent no.3, have already been appointed as such.
2. The facts of the case, as culled out from the pleadings of the applicant, are that he is a Matriculate and belongs to Mazhabi Sikh Caste (SC). He is having driving licence to drive heavy vehicles issued by District Transport Officer (DTO), Moga. He also claims to have experience of working as Driver on Heavy Transport Vehicle (HTV) for a period of five years. An advertisement was issued by CTU for recruitment of 114 Bus Drivers, on regular basis out of which 26 were reserved for SCs. The general instructions (Annexure A-7) were also issued providing for the age limit from 25 to 35 years, as on 1.1.2015, with relaxation of 5 years to SCs. The test was to be conducted of 100 marks (written) and Driving Skill Test. The selection was to be made on the basis of merit in the written examination. The applicant was one of the candidates in the selection. He appeared in the selection and secured 62 marks in written test, and placed at Rank No. 33 in merit list. He was also found eligible for driving skill test. On asking of respondents, he produced certificate from DTO, Moga, that his driving licence is genuine. The applicant was selected for the post of Driver in CTU in the pay scale of Rs.5910-20200 + Rs.2400 GP and was asked to

complete all the formalities. His medical examination was done and character and antecedents was also verified. However, he was not issued formal appointment order, though juniors to him, including respondent no.3, have been allowed to join their duties. His representation was rejected by the respondents vide order dated 18.8.2017 (Annexure A-1), hence the O.A. The case in short, presented by the applicant is that he was eligible and had produced all the documents to the respondents and as such there is no reason, whatsoever, to deny him appointment to the post of Bus Driver, as he is meritorious in his own category .

3. The respondents No.1&2 have resisted the claim of the applicant by filing written statement. It is pleaded that applicant has not approached this Tribunal with clean hands and has concealed the material facts. As per terms and conditions for recruitment of Bus Drivers, one was required to have five year experience of driving HTV on or before 10.12.2015. However, the licence to applicant was itself issued on 23.12.2010 and therefore, he was short of 13 days from the requisite requirement of 5 years on closing date i.e. 10.12.2015. Even experience certificate is dated 9.6.2016. Respondent No.3 has also filed reply on similar lines.

The applicant has filed a rejoinder. He pleads that prior to issuance of regular driving licence, he had obtained learners licence, and plied heavy vehicle during learning process, is also to be included as experience. For this reliance is placed on **National Insurance Company Ltd. Vs. Swarna Singh and Others**, 2004 (3) SCC 297.

4. We have heard the learned counsel for the parties at quite some length and examined the material on the file minutely.

5. The short question involved in this case is, as to whether the applicant, who was not having 5 years experience, after obtaining regular licence, on the cut off/closing date i.e. 10.12.2015 (short by 13 days), can be said to be eligible, by counting the period during which he drew vehicle on learners licence. The answer to this poser, of course, has to be in negative. It is not in dispute that the cutoff date for consideration of eligibility of the candidates was 10.12.2015 and as on that date, the applicant was short of 13 days' in required experience of 5 years. His plea that the period during which he plied vehicle on learners licence should be taken to assess the eligibility, in view of the quoted law, is not tenable and is rejected. The reliance placed by him on the decision in the case of Swaran Singh (*supra*) is misconceived as that is in a very different context. In that case, the claim was for insurance claims and Company was claiming immunity from payment, as driver had licence which was not renewed or was invalid. In that context, it was held that under the particular Rules, even learners licence, would be valid. Thus, it would not help the applicant.

6. The question as to whether a candidate must have the prescribed educational and other qualifications, on the particular date, specified in the Rule or the advertisement is no longer res *integra*. In **Bhupinderpal Singh v. State of Punjab** (2000) 5 SCC 262, after referring to the earlier judgments in **A.P. Public Service Commission v. B. Sarat Chandra** (1990) 2 SCC 669, **District Collector and Chairman, Vizianagaram Social Welfare Residential School Society v. M. Tripura Sundari Devi** (1990) 3 SCC 655, **M.V. Nair (Dr.) v. Union of India** (1993) 2 SCC 429, **Rekha Chaturvedi v. University of Rajasthan** 1993 Supp. (3) SCC 168, it was held that "that the cutoff

date by reference to which the eligibility requirement must be satisfied by the candidate seeking a public employment is the date appointed by the relevant service rules and if there be no cutoff date appointed by the rules then such date as may be appointed for the purpose in the advertisement calling for applications and that if there be no such date appointed then the eligibility criteria shall be applied by reference to the last date appointed by which the applications have to be received by the competent authority." The same view was reiterated in **M.A. Murthy v. State of Karnataka** (2003) 7 SCC 517 and **Ashok Kumar Sonkar v. Union of India** (2007) 4 SCC 54. It has authoritatively been held that a candidate who does not possess the requisite criteria, on the last date fixed for submission of the application, is not eligible to be considered for selection.

7. In the backdrop of aforesaid factual and legal scenario, we have no hesitation in holding that indeed the applicant was not eligible on the relevant cutoff date for selection to the post of Driver on account of lack of experience of 5 years, and has rightly been denied appointment as such and, therefore, the O.A. is found to be devoid of any merit and is dismissed accordingly.

8. The parties are, however, left to bear their own costs.

**(SANJEEV KAUSHIK)
MEMBER (J)**

**(P. GOPINATH)
MEMBER (A)**

Place: Chandigarh
Dated:

HC*